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09/083,422    05/22/98    CLARE

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EXAMINER

PM82/0606

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PEDDER, D

ART UNIT

PAPER NUMBER


3612  
DATE MAILED:

36  
06/06/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

|                                      |                                     |   |
|--------------------------------------|-------------------------------------|---|
| Application No.<br><b>09/083,422</b> | Applicant(s)<br><b>Clare et al.</b> |   |
| Examiner<br><b>Dennis H. Pedder</b>  | Art Unit<br><b>3612</b>             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 30, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 49-97 is/are pending in the application.
- 4a) Of the above, claim(s) 75-84, 90, and 95 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-56, 58-73, 85-89, 91-94, 96, and 97 is/are rejected.
- 7) ☒ Claim(s) 57 and 74 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 35 20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The IDS of 4/30/2001 has been considered as to references available to the examiner.

Applicant has chosen to not provide copies of some references, providing same in a copending application. However, that application is not before the examiner and the references cannot be made of record at this time as a result.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 51, 66, 67, 69-71, 72, 87, 94, 96-97 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 51 is incorrect. A single disclosed storage area does not extend from the pair of wheel wells.

Claims 66, 67, 72 list alternative structure in inherent conflict with the statute regarding particularly pointing out. Suggest --at least one--, --one of forward or rearward-- and --at least one--, respectively.

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Claims 70, 71 lack clear antecedent to the hinged section of claim 61.

Claims 87 and 94 incorrect. Temperature control of the strut, as disclosed, does not provide temperature control to the storage area. Further this claim also does not particularly point out. Suggest --a temperature control for the strut by at least one of insulating and heating--.

#### *Claim Objections*

4. Claim 89 is objected to because of the following informalities: "one the hinged" and "one the storage area" are grammatically awkward. Appropriate correction is required.

#### *Election/Restriction*

5. Claims ~~75-84, 90, 95~~ are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected species. Election was made **without** traverse in Paper No. 33.

Applicant admits that claims 90, 95 are not drawn to the elected species with a rear passenger compartment. Claims 75-84 are directed to a species with a bed and a tailgate, not generic to a passenger compartment. Consequently, these claims are withdrawn by the examiner as not directed to the elected species.

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***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 49-50, 52-56, 61, 63-65, 67-68, 70, 72-73, 85-86, 89, 92-93, 97 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker.

Walker shows a vehicle with cargo area 9, side panels 13, storage area adjacent these side panels, the panels installed in an opening, and the panels being hinged at 13a to provide access.

The storage area extends over wheel wells 10a, claim 50.

The storage area extends along the floor, claim 52.

The storage area includes latches 16, claim 53.

The hinges include a strut assembly 13a, claim 56.

The vehicle of Walker includes an enclosure for equipment at 9, claim 61.

As to claim 67, the storage area extends rearwardly of the wheel well 10a.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 58, 60, 66, 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Holan et al..

It would have been obvious to one of ordinary skill in the art to provide in Walker multiple hinged sections as taught by Holan et al. at 12-15 in order to access restricted areas of the storage area. For small items, opening a smaller hinged section is simply easier.

As to claim 60, Holan et al. has drawers 40-45.

As to claim 69, Holan et al. teaches a hinged section 14 above a wheel well.

10. Claims 59 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Gallagher et al..

It would have been obvious to one of ordinary skill in the art to provide in Walker a drain valve as taught by Gallagher et al. to allow unintended liquids to disperse.

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11. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Mayer.

It would have been obvious to one of ordinary skill in the art to provide in Walker a rear door 22 as taught by Mayer in order to selectively open the cargo area. The storage system in Walker as modified by Mayer is intermediate.

12. Claims 51 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Douglass, Jr..

It would have been obvious to one of ordinary skill in the art to provide in Walker an extended length hinged section as taught by Douglass, Jr. at 43 in order to store extended length items.

13. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Cerf et al..

It would have been obvious to one of ordinary skill in the art to provide in Walker a rear passenger compartment as taught by Cerf et al. in order to carry additional passengers.

***Allowable Subject Matter***

14. Claims 87, 94-97 cannot be evaluated at this time as the claim appears to be incorrect.

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15. Claims 57, 74 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Applicant is cautioned to maintain a clear line of demarcation between the claims of this application and those already issued in order to avoid the necessity of double patenting rejections.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pedder whose telephone number is (703)308-2178. Fax amendments to expedite handling should be sent to (703) 305-7687.

DHP

May 31, 2001

  
Dennis H. Pedder  
Primary Examiner  
Art Unit 3612  
5/31/01